

Justification of Changes Without Regulatory Effect  
California Work Opportunity and Responsibility to Kids (CalWORKs)  
Stage One Child Care Eligibility, ORD #0916-11  
Section 100 (Editorial)

Current regulations in the Manual of Policies and Procedures (MPP) section 47-260.54 (governing the collection of information from license-exempt childcare providers, including collection of Social Security numbers) hold the following: "Provision of the Social Security number is mandatory to enable the county to comply with the federal reporting requirements for an unduplicated count of child care providers under the Child Care and Development Fund. The county shall inform the provider that provision of the Social Security number is mandatory, and the uses that will be made of this number."

The MPP section 47-260.54 was originally enacted to comply with federal law. However, it is no longer aligned with the federal reforms enacted upon reauthorization of the Child Care and Development Block Grant Act of 2014 (the Act), which funds and subsequently governs the CalWORKs Stage One child care laws. (P.L. 113-186; 42 U.S.C. section 9857 et. seq.). According to the Federal Register, Section 658K(a)(1)(E) of the Act prohibits reporting of personally identifiable information in the monthly report to the Secretary. [See also 42 U.S.C. section 9858i(a)(1)(E)]. This change prohibits all Social Security numbers from being reported, as it is personally identifiable information. Moreover, California law expressly prohibits state agencies' collection or use of personal information such as Social Security numbers unless specifically necessary to accomplish a required function or mandated by federal law (California Civil Code section 1798.14).

The federal reporting regulations for programs funded by the Child Care and Development Fund were amended to delete requirement of Social Security numbers for the head of the assistance unit and the child care provider, replacing them with a Unique Identifying number [45 C.F.R. section 98.71(a)(14)]. Nowhere in the remaining sections on reporting requirements is the use of Social Security numbers mentioned (45 C.F.R sections 98.70 through 98.71). Therefore, while the collection of Social Security numbers by a state agency may be permitted for its own purposes, it is not mandated by any federal law.

The Office of Child Care (OCC) requires that all states submit their federal reporting requirements via the ACF-801 form. Information regarding the family, child, and child care provider are collected monthly and reported concurrently. The OCC prohibits submission of child care providers' Social Security numbers in lieu of the Federal Employer Identification number, nor can the Social Security number be used as, or as part of, the providers' Unique State Provider identification. Additionally, as the unique number is assigned by the state, there is no circumstance where the Lead Agency would be forced to use a Social Security number in lieu of a unique number. According to the OCC, in the event that a unique number is not readily available, a temporary number will be created and issued until a permanent one becomes available.

In a similar effort to comply with changes to federal law, the California Department of Education (CDE), which administers CalWORKs Stage Two and Three child care, posted Management Bulletin 17-20 modifying child care application requirements. The Bulletin instructed that, since Social Security numbers cannot be reported, there is no longer a need for agency contractors to collect them. As such, the Social Security number field was deleted from EESD-9600, the child care services application form. The modifications of the OCC's reporting form and CDE's application form are clear indications that there is no longer any agency need to collect Social Security numbers. The same reasoning applies to the proposed changes to MPP section 47-260.54.

Thus, the change in federal law pursuant to reauthorization of the Act no longer requires the California Department of Social Services (CDSS) nor the counties to collect Social Security numbers as part of their reporting duties, and the collection of child care providers' Social Security numbers is not necessary to carry out any other required function. Therefore, regarding MPP section 47-260.54, CDSS is proposing a Section 100 request to 1) delete the Social Security number collection requirement within MPP section 47-260.54 in order to align the MPP with California law and changes to federal law; 2) renumber the affected outline (MPP sections 47-260.55 through .58); and 3) update the References, striking out Subsection (2)(A) from 42 U.S.C. 9858i(a)(2)(A).